IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3136 OF 2005

M/s. Shree Hari Builders & Ors. ... Petitioners.

V/s.

Raj Residency - I Co-operative Housing
Society & Anr. ... Respondents.

Mr. A.P. Mundargi, Sr. Counsel,i/b M/s. Tamhane & Co.
for the Petitioners.

Mrs. Sumedha Rao, for the Respondent No.1.
Mr. A.S. Shitole, A.P.P. for the State.

CORAM : A.S. OKA, J.
DATE : 04th SEPTEMBER, 2006.

P.C. :

1. Heard learned Senior Counsel appearing for the Petitioners and the Advocate appearing for the Respondent No.1.

2. The learned Magistrate issued process on a private complaint filed by the first Respondent against the present Petitioner for the offences punishable under Section 3,5,11,13 and 14 of Maharashtra Ownership Flats (Regulation of Construction, Sale, Management and Transfer) Act, 1963 as well as under Section 420 of the Indian Penal Code. The order issuing process was challenged by filing a Revision Application which has been rejected.

3. The learned Senior Counsel appearing for the Petitioners has relied upon a copy of agreement for sale executed by the Petitioners in favour of a flat purchaser. He submitted that in view of the contract between the Petitioners who are the developers and the flat purchasers, no case is made out of commission of offences under the Provisions of the said Act of 1963.

4. I have considered the submissions of the learned Counsel. I have also perused the averments in the complaint filed by the first Respondent. I find no error in view taken by the Sessions Court. After examining the complaint and reading it as a whole, I find that prima facie case was made out as material ingredients of the offences alleged are made out.

5. In my view, no case is made out for interference. Petition is rejected. However, it is clarified that all the contentions of the Petitioners are kept open and the observations made in the order are for limited purpose of considering the challenge to the order issuing process.

JUDGE